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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,044	06/22/2001	Grover Blackwell	NHS-2	6965

7590 08/04/2004

TIMOTHY A. CASSIDY
Dority & Manning
Attorneys at Law, P.A.
P.O. Box 1449
Greenville, SC 29602

EXAMINER

RHEE, JANE J

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 08/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/888,044	BLACKWELL ET AL.	
	Examiner	Art Unit	
	Jane Rhee	1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Rejection Withdrawn

1. The 35 U.S.C. 103 rejection of claims 1-20 of Taylor in view of Ruggles has been withdrawn due to applicant's amendment.

New Rejection

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable by Taylor (5848505) in view of Ruggles (6014839).

Taylor discloses a face panel made from a synthetic polymer (col. 2 line 45), the face panel including a first vertical end portion and a second vertical end portion (col. 2 line 36-37), a first rear vertical support and a second rear vertical support attached to the face panel (col. 2 line 54), the rear vertical support being spaced apart and extending along the length of the face panel (figure 2 number 16), the first rear vertical support being positioned adjacent to the first vertical end portion and the second rear vertical support being positioned adjacent to the second vertical end portion (figure 2 number 16) and at least one rear horizontal support attached to the face panel (figure 2 number 19) and rear horizontal support extending in between the pair of rear vertical

supports (figure 2 number 19), and a first channel member and a second channel member each of the channel members having a u-shaped cross section, the first channel member being placed over the first vertical end portion and the first rear vertical support and the second channel member being placed over the second vertical end portion and the second rear vertical support (figure 2). Taylor discloses that the face panel is made from an expanded foam polyvinyl chloride (col.2 lines 45-47). Taylor discloses that the first and second rear vertical supports and at least one rear horizontal support are made from an expanded foam polyvinyl chloride (col. 2 line 52). Taylor discloses that the first and second vertical supports are attached to the face panel using an adhesive (col. 2 lines 52-57). Taylor discloses that each of the vertical end portions and the rear vertical supports include indentations and wherein the channel members define raised elements that reside in the indentations (figure 2 number 17). Taylor discloses that the shutter includes at least two rear horizontal supports (col. 4 line 17-18). Taylor discloses a polymer film positioned in between the face panel and the first and the second rear vertical supports and between the face panel and at least one horizontal support (col. 3 lines 19-20). Taylor discloses that the first and second channel members are made from aluminum (col. 3 line 12). Taylor discloses routed out decorative areas (col. 2 lines 49-51). Taylor discloses that the first and second channel members extend the entire length of the face panel (figure 2 number 14). Taylor discloses that the indentations located on the vertical end portions and the rear vertical supports comprise vertical slots and extend the length of the shutter, and wherein the

Art Unit: 1772

raised elements defined by the channel members also extend the length of the shutter (figure 2 number 17).

Taylor fail to disclose that the channel members being made from a metal. Ruggles teaches that the channel members maybe constructed from of any suitable material or combination of materials, including but not limited to wood, metal, plastics, ceramics, and combinations thereof (col. 6 lines 10-14), therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Taylor with the channel members being made from a metal, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of design choice. In re Leshin, 125 USPQ 416.

Taylor fail to disclose that the face panel is coated with a lacquer coating. Taylor teaches repainting of the shutters periodically during the life of the shutter to prolong the lifespan of the shutter (col. 5 lines 21).

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide the face panel with a coating of lacquer to prolong the lifespan of the shutter as taught by Taylor. (col. 5 line 21).

Furthermore, applicant amended the independent claims 1, 11, and 17 to include the limitation that the first channel member being placed over and enclosing the first vertical end portion and the first rear vertical support and the second channel member being placed over and enclosing the second vertical end portion and the second rear vertical support, the first and second channel members forming exterior vertical edges

of the shutter. Taylor discloses in figure 2 that the first channel member (left side number 11) is placed over and encloses the first vertical end portion (left side number 17) and the first rear vertical support (left side number 16) and the second channel member (right side number 11), is placed over and encloses the second vertical end portion (right side number 17) and the second rear vertical support (right side number 16), the first and second channel members forming exterior vertical edges of the shutter (right and left side number 11).

Response to Arguments

2. Applicant's arguments filed 4/19/2004 have been fully considered but they are not persuasive.

In response to applicant's argument that Taylor fails to disclose the first and second metal channel members that form exterior vertical edges of a shutter, the applicant merely claims that the first channel member and the second channel member is made of metal, therefore, Talyor discloses that the first and second channel members are made from aluminum (col. 3 line 12) because applicant did not claim that the first and second channel members are entirely made of metal. Part of Taylor's first and second channel members is made of aluminum and even if the aluminum parts of the first and second channel member are considered as inserts in the first and second channel members, the first and second channel members as a whole comprises the aluminum insert therefore the first and second channel members is made of metal. Furthermore, prior art Ruggles teaches that the frame of the can be made of metal among other practical materials and since the first and second channel members frame

Art Unit: 1772

applicant's shutter, it would have been obvious to provide Taylor with the first and second channel members to be made of metal since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of design choice. In re Leshin, 125 USPQ 416.

Thus, in the absence of any evidence to the contrary, it remains the Examiner's position that the claimed invention is rendered obvious over the prior art of record discussed above.

Conclusion

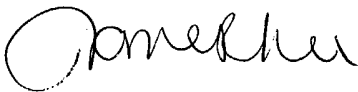
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

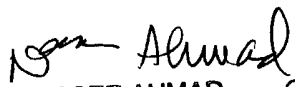
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jane Rhee whose telephone number is 571-272-1499. The examiner can normally be reached on M-F 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nasser Ahmad can be reached on 571-272-1487. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jane Rhee
July 29, 2004


NASSER AHMAD
PRIMARY EXAMINER 8/2/04